

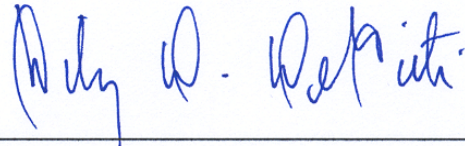
JOYCE ANN WITHROW,)
)
 Plaintiff,)
)
 vs.) No. CIV-08-1355-D
)
 MICHAEL J. ASTRUE,)
 COMMISSIONER OF THE SOCIAL)
 SECURITY ADMINISTRATION,)
)
 Defendant.)

Before the Court is Plaintiff's Application for Attorney's Fees to be Awarded in Accordance with the Equal Access to Justice Act ("EAJA") [Doc. 25]. Plaintiff brought this action to seek reversal of the Defendant Commissioner's denial of her application for Social Security disability benefits and supplemental security income benefits. In its November 9, 2009 Order [Doc. No.23], the Court reversed the Commissioner's decision and remanded the matter for further proceedings. Accordingly, Plaintiff is the prevailing party and is entitled to an award of fees under the EAJA provisions, 28 U.S.C. § 2412. The Commissioner has filed a response to Plaintiff's application, and does not object to the application or to the amount requested.

After consideration of the law, the record, and the arguments of the parties, the Court finds that (1) the Commissioner's position was not substantially justified; (2) Plaintiff is entitled to attorney fees under the EAJA; and (3) the requested attorney fees are reasonable. Therefore, the

Court orders that Plaintiff be awarded fees pursuant to the EAJA in the amount of \$5,536.70. Pursuant to the applicable law, if a later fee award is authorized and paid under 42 U.S.C. § 406(b), the Court will direct apportionment of the EAJA award between Plaintiff and the attorneys as required by *Wrenn v. Astrue*, 525 F.3d 931 (10th Cir. 2008).

IT IS SO ORDERED this 9th day of March, 2010.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE